

The provisions of Subpart M of the Retailers' Occupation Tax regulations provide that if a lessee operates a business on the lessor's premises under the identity of the lessor, the lessor must report and remit the lessee's tax on the lessor's Retailers' Occupation Tax return. See, 86 Ill. Adm. Code 130.1305. (This is a GIL.)

January 17, 2002

Dear Xxxxx:

This letter is in response to your letter dated September 10, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 (b) and (c), which can be found on the Department's Web site at www.revenue.state.il.us/legalinformation/regs/part1200. In your letter, you have stated and made inquiry as follows:

As per our conversation on August 29, 2001 I am writing to request a short letter of explanation for the vendors of AAA. The letter should explain to them how they are to report the sale of their merchandise on their individual ST-1 form. I have spoken to the Illinois Department of Revenue audit department and your office in the past and understand you prefer the mall collect, report and pay all sales taxes for all merchandise sold through our mall, which we have done since the opening of business November 1, 2000. Accordingly we have no way to breakout the amount of sales for each vendor stating the amount of sales for resale and the amount that was taxable sales and the amount of tax collected.

As we discussed however, several of our vendors have been told by 'people at the window' that they should report those same sales, including the tax on their individual ST-1 form. The Illinois Department of Revenue audit department has explained to us on two different occasions we need only tell these vendors to list their sales total on line 16 as exempt with an explanation that all sales tax due are paid by AAA. The second time was on August 21, 2001 when I spoke to PERSON who was very helpful but said he could not send us anything in writing for our vendors.

Because our vendor have received this conflicting information we are asking for your assistance in providing us with the brief letter of explanation referenced above. As in the past we appreciate your help and will continue to do business as your joint offices have recommended.

DEPARTMENT'S REPSONSE

It is our understanding from the information presented in your letter that AAA files and remits taxes for sales made by vendors located on its premises. This type of arrangement is authorized

under the provisions of Subpart M of the Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130.1301 through 130.1310).

You have indicated that your lessees are seeking guidance regarding how they are to report the sale, on their individual ST-1 forms, of the merchandise they sell at your antique mall. As you can see from the regulations in Subpart M, lessee-vendors that sell tangible personal property exclusively at an antique mall location such as yours would not necessarily be required to file returns at all, if their lessors assume or are required to make such returns and make payment of tax. You have indicated in our subsequent telephone conversations, however, that your lessee-vendors also make sales at other locations, which requires them to file individual ST-1 forms.

As you have indicated, your establishment files returns and makes payment of tax for its lessee-vendors. When your lessee-vendor files his return, he should include the amount of gross receipts from sales at your mall on line 1 of the sales tax return, absent any tax on those sales. Your lessee-vendor has not, himself, collected any tax on these sales, since that function is performed by your establishment. In addition, your letter indicates that your lessee-vendor cannot determine which of these sales are tax-exempt or taxable, since you do not provide this information to your lessee-vendors. On line 2 ("Deductions"), the lessee-vendor should report the amount of gross receipts received from sales at your mall. Under line 16 ("Other") of the worksheet for line 2, the lessee-vendor should record the amount of gross receipts received from sales at your mall, with a notation that taxes on these receipts are being collected and remitted by your establishment (include the name of your establishment and address). Completion of the return in this manner will serve to account for these gross receipts, yet reflect the fact that tax on these gross receipts is being collected and remitted by your establishment.

I hope that this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110 (b).

Very truly yours,

Jerilynn T. Gorden
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